

Barry I. Levy (BL 2190)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL PAULINO,

Plaintiff,
-against-

Docket No.:
CV 07-8593 (GBD)

NEWS CORP. also known as NYP HOLDINGS, INC.
doing business as THE NEW YORK POST,

Defendant.

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DECLARATION OF BARRY I. LEVY, ESQ.

Barry I. Levy, pursuant to 28 U.S.C. § 1746, hereby declares the truth of the following:

1. I am a partner with Rivkin Radler LLP and am lead counsel for the Defendant, NYP Holdings, Inc., sued incorrectly here as “News Corp.” (hereinafter “NYP” or “defendant”) in this matter.¹
2. This declaration respectfully is submitted in support of NYP’s motion to dismiss, for summary judgment, and for sanctions, as well as to present certain documents to the Court in this matter.

¹ Although News Corp. is actually named in the complaint as a defendant, it has no relationship to this case as it has never been the Plaintiff’s employer. NYP Holdings, Inc. is the entity who employs plaintiff and is signatory to the collective bargaining agreement with New York Printing Pressmen’s Union Local No. 2.

3. Attached as Exhibit "A" is plaintiff Daniel Paulino's ("Paulino" or "plaintiff") January 4, 2006 complaint in Paulino v. The New York Printing Pressmen's Union, Local Two, Docket No.: CV 06-0053(GBD) ("Paulino II").

4. Attached as Exhibit "B" is the July 28, 2005 Declaration of Robert A. Costello that was filed with the Court in Paulino II.

5. Attached as Exhibit "C" are relevant pages of the Pressmen's-Publishers' Benefits Fund Summary Plan Description. Document was also filed with the Court in Paulino II.

6. Attached as Exhibit "D" is plaintiff's May 11, 2005 original complaint in Paulino v. New York Pressmen's Union No. Two, Docket No.: CV 05-4647(GBD) ("Paulino I").

7. Attached as Exhibit "E" is plaintiff's July 6, 2005 first amended complaint Paulino I.

8. Attached as Exhibit "F" is New York Pressmen's Union Number Two's ("Local 2") August 1, 2005 motion to dismiss plaintiff's first amended complaint in Paulino I.

9. Attached as Exhibit "G" is the docket sheet in Paulino I.

10. Attached as Exhibit "H" is plaintiff's August 31, 2005 memorandum of law in opposition to Local 2's motion to dismiss plaintiff's first amended complaint in Paulino I.

11. Attached as Exhibit "I" is plaintiff's September 6, 2005 proposed second amended complaint in Paulino I.

12. Attached as Exhibit "J" is this Court's September 30, 2005 Order granting plaintiff's request to withdraw all claims against NYP in Paulino I.

13. Attached as Exhibit "K" is the October 5, 2005 Order and Stipulation of Dismissal With Prejudice signed and entered in Paulino I.

14. Attached as Exhibit "L" is this Court's December 14, 2005 Order denying plaintiff's request to file the proposed second amended complaint in Paulino I.

15. Attached as Exhibit "M" and "N" are February 17, 2006 motions to dismiss and/or for summary judgment filed by Local 2 and the Publishers'- Pressmen's Welfare Fund (the "Fund") in Paulino II.

16. Attached as Exhibit "O" is this Court's April 5, 2006 Order dismissing plaintiff's claims against the Fund in Paulino II with prejudice.

17. Attached as Exhibit "P" is this Court's May 7, 2007 Memorandum Opinion and Order granting the motion of New York Newspaper Printing Pressmen's Union Local No. 2 ("Local 2") for summary judgment and/or dismissal in Paulino II.

18. Attached as Exhibit "Q" is plaintiff's October 3, 2007 complaint in Paulino v. News Corp., et. al. Docket No.: CV 07-8593 (GBD).

19. Attached as Exhibit "R" are relevant pages of the NYP Cafeteria Plan Summary Plan Description.

20. Attached as Exhibit "S" is the November 7, 2007 Declaration of Michael Racano.

21. Attached as Exhibit "T" are the relevant pages of the collective bargaining agreement between NYP and Local 2.

I declare the truth of the foregoing subject to the penalties of perjury. Executed at Uniondale, New York on November 8, 2007.

/s/ Barry I. Levy
Barry I. Levy (BL 2190)